

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

CARGILL, INCORPORATED,

Plaintiff,

v.

CANBRA FOODS, LTD., et al.,

Defendants.

No. CV03-1209-MO

ORDER RE: MOTION FOR
JUDGMENT AS A MATTER OF LAW
OR A NEW TRIAL ON DAMAGES

MOSMAN, J.,

Defendants move for judgment as a matter of law or a new trial on damages. They contend the jury was forced to speculate as to the amount of infringing oil and the reasonable royalty.

A jury's award of damages must be upheld unless it is clearly not supported by evidence. *Micro Chem. Inc. v. Lextron, Inc.*, 317 F.3d 1387, 1394 (Fed. Cir. 2003). Disputed evidentiary points are not enough; the jury's verdict stands unless it is "against the great weight of the evidence, or it is quite clear that the jury has reached a seriously erroneous result." *Hangarter v. Providence Life & Accident Ins. Co.*, 373 F.3d 998, 1005 (9th Cir. 2004).

Defendants have done nothing more than point out areas of evidentiary dispute. The jury was certainly not required to adopt only one of two damages proposals - - plaintiff's or defendants'. They chose a middle ground. Their decision was not only supported by the

evidence they heard, it was in fact more consistent with the damages testimony than any party's proposal. I DENY the motion.

IT IS SO ORDERED.

DATED this 22nd day of November, 2005.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge